In Kentucky testimony of a doubtful character is not sufficient. *Tudor* v. *Commonwealth,* 27 Ky. Law Reporter, 87. In New Jersey the evidence must be clear and convincing. *Re Noonan & Simpson,* 65 N. J. L. 142. *In the Matter of Attorney* (1 Hun 321) the disbarment is held to be penal and should be free from serious doubt. *In Matter of Mashbir* (44 App. Div. 632) guilt must be established beyond a reasonable doubt. When the courts say that a case must be free from doubt, if anything less than a reasonable doubt is meant the persuasion required is even greater than that necessary in a criminal prosecution. In short we find from the cases that the rule is in several states opposed to that enunciated in the principal case. On principle an anomalous situation arises if the rule of the principal case is to be followed in disbarment for commission of a felony. Many courts, among them the United States Supreme Court (see 3 AM. & ENG. ENC. OF LAW, 304, Ed. 2) hold that for indictable misconduct in an official capacity previous conviction is not necessary to warrant disbarment. In disbarment proceedings the attorney may demand a jury trial, as he has the right to do in Indiana, (*Reilly* v. *Cavanaugh,* 32 Ind. 214), and the jury may find the preponderance of evidence in favor of guilt. But if the attorney is afterward indicted and tried for the same offense, the jury may find that the evidence does not show guilt beyond a reasonable doubt. The result is that an attorney is disbarred for something of which a jury says he is innocent. It is submitted that, upon this assumed state of facts, the same measure of persuasion should be required in each trial, or else that the cases holding that a previous conviction is not a prerequisite to disbarment should be overruled.

BANKRUPTCY — CORPORATIONS SUBJECT TO INVOLUNTARY BANKRUPTCY — AMENDMENT OF 1910.—The Willis Cab and Automobile Co. was a corporation whose principal business was the keeping of a boarding stable to feed and care for horses for hire. An involuntary petition in bankruptcy filed against the corporation, in the District Court for the Southern District of New York, was dismissed, on the ground that the corporation was not one engaged principally in mercantile or trading pursuits within the meaning of § 4 b of the Bankruptcy Act of 1898. *In re Willis Cab & Automobile Co.* (1910), — D. C., S. D., N. Y. —, 178 Fed. 113.

Three other cases coming under the same section of the Statute were decided by the United States Supreme Court shortly previous to the foregoing one. The Toxaway Hotel Co., a corporation, duly formed under the laws of Georgia, was chartered to conduct hotels, inns, restaurants, etc., with their usual and necessary adjuncts. The company acquired and operated six hotels. Creditors filed a petition to adjudicate the corporation a bankrupt as having been principally engaged in mercantile and trading pursuits. *Held,* that the company was not amenable to the act. *Toxaway Hotel Co.* v. *Smathers* (1910), 216 U. S. 439. The Monongahela Construction Company was a Pennsylvania corporation, the principal business of which was to make and construct arches, walls, bridges, etc., out of concrete. It was held to be a corporation engaged principally in manufacturing within the meaning of § 4 of the Bankruptcy Act. *Friday* v. *Hall & Kaul*

Co., 216 U. S. 449. Another case coming up before the U. S. Supreme Court for decision involved the question as to whether a corporation engaged principally in carrying on a general restaurant business, could be considered as engaged in a trading or mercantile pursuit within the meaning of § 4 of the statute. The court held that it could not. *Nollman* v. *Wentworth Lunch Co.* (1910), 217 U. S. 591. Other recent cases upon the points involved in the preceding cases are: *In re Humphrey,* 177 Fed. 187; *Robertson* v. *Union Potteries Co.,* 177 Fed. 279; *Bollinger* v. *Central Nat. Bank,* 177 Fed. 609; *In re Eagle Laundry Co.,* 178 Fed. 308; *U. S. Surety Co.* v. *Iowa Mfg. Co.,* 179 Fed. 55. These are the latest cases decided under § 4 of the Bankrupt Act as amended by § 3 of the Act of February 5, 1903, c. 487, 32 Stat. 797, relating to involuntary bankrupts. The section was amended in June, 1910, extending the application of the Act to all moneyed, business or commercial corporations, excepting municipal, railroad, insurance and banking corporations. This amendment eliminates a question, over which there has been much contrariety of opinion in the lower Federal courts, and which has but recently been settled by the Supreme Court of the United States in the three cases noted above. It is practically a return to § 37 of the Bankruptcy Act of 1867, except that municipal, railroad, insurance and banking corporations are expressly excluded. The Federal Courts held that the Act of 1867 applied to all corporations created for the purpose of carrying on or pursuing any lawful business defined by their charters, and clothed with power for this purpose, for the sake of gain. *Rankin* v. *Florida R. R. Co.,* 20 Fed. Cas. 274; *Alabama R. R. Co.* v. *Jones,* 1 Fed. Cas. 275. Apparently under such a holding all of the corporations in the principal cases above mentioned would have been adjudicated bankrupts. The Act of 1898 narrowed down considerably the class of corporations that might become involuntary bankrupts. The Federal Courts under this act have construed strictly and technically the terms applied to the classes of cases enumerated. *In re Cameron Town Ins. Co.,* 96 Fed. 756; *In re Tontine Surety Co.,* 116 Fed. 401; *In re Guarantee and Trust Co.,* 121 Fed. 73. The new amendment is a return to a more liberal application of involuntary bankruptcy to corporations generally.

BANKRUPTCY—FOLLOWING TRUST FUNDS INTO HANDS OF TRUSTEE IN BANKRUPTCY.—S, who did a private banking business, became insolvent prior to Aug. 15, 1908. Between that date, and Sept. 30, 1908, claimant made a number of deposits in S's bank. On the latter date S. filed a voluntary petition in bankruptcy, claimant having in the bank at the time a balance of $231.11, which was more than covered by the cash on hand. Claimant was ignorant, prior to proving his claim, that S. had accepted claimant's deposits, knowing himself to be insolvent at the time. Claimant bases his claim on the fraudulent receipt of his deposits, and seeks to recover the amount of his balance as a trust fund, in preference to the other creditors. *Held,* that claimant could follow the full amount of his claim into the hands of S's trustee in bankruptcy, as a trust fund, and in preference to other creditors. *In re Stewart* (1910), — D. C., N. D., N. Y. —, 178 Fed. 463.

That trust funds may be followed from the holder, into the hands of the